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Letter dated 10 July 2007 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Viet Nam submitted pursuant to resolution 1624 (2005) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ricardo Alberto **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 25 June 2007 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Counter-Terrorism Committee and, with reference to the Chairman's note dated 4 April 2006, has the honour to transmit to the Committee the report on the implementation of resolution 1624 (2005) on additional measures to combat terrorism (see enclosure).

Enclosure

Report submitted to the Counter-Terrorism Committee on implementation by Viet Nam of Security Council resolution 1624 (2005) on additional measures to combat terrorism

INTRODUCTION

Viet Nam's consistent policy is to strongly condemn all terrorist acts, in any form and by any motive. Perpetrators of terrorist acts, including individuals guilty of inciting the commission of terrorist acts, must be severely punished. Viet Nam fully supports efforts to root out terrorism and maintains that counter-terrorism measures must be taken in full compliance with the Charter of the United Nations and fundamental principles of international law, whilst strictly observing the principles of respecting national sovereignty, non-interference in each others' internal affairs, neither complicating existing international relations nor causing damages to the lives and properties of civilians.

In this spirit, Viet Nam has acceded to 8 out of 13 multilateral international treaties on counter-terrorism and is now considering the accession to the 1979 International Convention against the Taking of Hostages and the 1997 International Convention for the Suppression of Terrorist Bombings.

Based on the guidance given in the Note No. S/AC.40/2006/OC.94 dated 4 April 2006 of the Security Council Counter-Terrorism Committee established pursuant to resolution 1373 (2001), the Government of the Socialist Republic of Viet Nam hereby submits to the Committee its report on the implementation of resolution 1624 (2005) on additional measures to combat terrorism.

QUESTIONS & ANSWERS

Question 1.1: What measures does Viet Nam have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Answer:

First, it is necessary to state that the Penal Code of the Socialist Republic of Viet Nam, adopted by the National Assembly on 21 December 1999, establishes a terrorist act as a criminal offence and provides that individuals who commit terrorist acts will be strictly punished with the highest possible sentence being capital punishment. Article 84 of the Penal Code provides for terrorist acts and their sentencing frame as follows:

"**Article 84. Terrorism**

1. Those who intend to oppose the people's administration and infringe upon the life of officials, public employees or citizens shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment.

2. In the case of committing crimes by infringing upon physical freedom and/or health, the offenders will be sentenced to between five and fifteen years of imprisonment.

3. In the case of committing crimes by threatening to infringe upon life or committing other acts of moral intimidation, the offenders shall be sentenced to between two and seven years of imprisonment.

4. Those who terrorize foreigners in order to cause difficulties to the international relations of the Socialist Republic of Viet Nam shall also be penalized according to this Article."

Even though there is no provision in the Penal Code specifically addressing incitement to commit terrorist acts, such an act is subject to severe punishments. The legal basis for such punishment is the combination of Article 84 on Terrorism and Article 20 on Complicity, which also covers the act of incitement. Article 20 of the Penal Code stipulates that:

"**Article 20. Complicity**

...

2. Organizer, executor, instigators and helpers are all accomplices.

...

The instigators are those who incite, induce and encourage other persons to commit crimes.

..."

Therefore, an individual who is guilty of incitement to commit a terrorist act or acts, will be considered terrorist accomplice and shall be punished in accordance with Article 84 of the Penal Code.

To date, though there is no legal document on counter-terrorism, many existing provisions under relevant legal documents (Penal, Criminal Proceedings, Administration etc.) have created a fairly comprehensive and effective legal corridor for the prevention and suppression of terrorism as well as for regional and international cooperation in this area.

Viet Nam attaches great importance to the completion of its legal framework. With that motto, the amendment of the Penal Code and Criminal Proceeding Code has been inscribed into the National Assembly's Programme on Developing Laws and Ordinances in 2007. Viet Nam is also considering drafting a Law on Terrorism Prevention and Suppression. The Vietnamese Prime Minister is also expected to issue a Directive on Counter-Terrorism Activities in the New Context.

Question 1.2: What measures does Viet Nam take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Answer:

First, it is necessary to reiterate Viet Nam's consistent policy not to allow any terrorist to find a safe heaven in Viet Nam.

a. To ensure that any person who conceals or fails to denounce terrorist acts will be judged in a fair and legitimate manner, there are provisions under the Vietnamese criminal law to punish the offences of concealing or failing to denounce

legal basis for the realization of its international commitments in the fields of mutual judicial assistance and extradition.

Question 1.3: How does Viet Nam cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Answer:

First, it should be noted that the Penal Code of Viet Nam has regulations on illegal use of seals, specifically Article 266 on "Amending and/or using certificates and documents issued by agencies and/or organizations", Article 267 on "Crime of forging the seals and/or documents of agencies and/or organizations", Article 268 on "Crime of appropriating, buying, selling and destroying the seals and/or documents of State agencies and/or social organizations". These provisions can be applied to prevent and combat the use of fraudulent documents, and to deter criminals, including the suspects of terrorist incitement, from immigrating into Viet Nam.

a. To create a legal foundation for cooperation with neighbouring countries in managing and assuring border security, Viet Nam has concluded 3 agreements on management of border areas, namely Viet Nam - Cambodia Agreement on Border Regime in 1983, Viet Nam - Laos Agreement on National Border Regime in 1990 (amended and supplemented by Protocol in 1997) and Viet Nam - China Interim Agreement on management of border issues in 1991. Based on these agreements, relevant agencies of Viet Nam have worked closely with their counterparts of Cambodia, Laos and China to strengthen security in border areas with a view to preventing the entry into Vietnamese territory of terrorist suspects, as well as to detect and combat the forging and use of fraudulent travel documents and counterfeit passports for the purpose of committing terrorist acts.

b. Viet Nam's competent agencies, namely the Ministry of Public Security and the Ministry of Defence, have guided functional units to put under strict surveillance the names of perpetrators and suspects of terrorist acts provided by Interpol, ASEANPOL and other countries' police and security forces. The said agencies have also intensified their coordination in checking and screening people and goods moving across the border, thus preventing perpetrators and suspects of terrorist acts as well as means used for the purpose of terrorism from entering Viet Nam. In addition, counter-terrorism "hot lines" connected to embassies and consulates of some countries in Viet Nam, such as the United Kingdom, the United States, Japan and Australia, have been established to exchange information on counter-terrorism efforts in a timely manner. The competent authorities of Viet Nam have also sent hundreds of officers to attend meetings, conferences and training courses related to anti-terrorism and border security organized by other countries.

c. Within South-East Asia, Viet Nam has worked closely with other ASEAN countries to develop an ASEAN Convention on Counter-Terrorism, which was signed in Cebu, the Philippines, on 13 January 2007. Paragraphs (d), (g) and (h) of Article VI in ASEAN Convention on Counter Terrorism stipulate measures to prevent and combat terrorism:

"... ...

(d) Prevent the movement of terrorists or terrorist groups by effective border control and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

...

(g) Enhance cross-border cooperation;

(h) Enhance intelligence exchange and sharing of information."

d. Moreover, Viet Nam has concluded various bilateral agreements on cooperation in crime prevention and suppression with countries like Thailand, China, Australia, Myanmar and Germany... According to these agreements, the parties themselves commit to conducting cooperation and exchanging information on the prevention and suppression of trans-national crimes, including terrorist crime, and forging of travel documents, etc.

e. Viet Nam boasts fine cooperation with international organizations in the field of strengthening of aviation security. One of the recent efforts is that Viet Nam facilitated the visit of an investigation team of the International Civil Aviation Organization (ICAO) to Viet Nam between 21 - 31 March 2005. The ICAO investigation team came up with good assessment of Viet Nam's efforts and put forth recommendations to further strengthen Viet Nam's aviation security. At present, the Viet Nam aviation agency is implementing the recommendations made by ICAO. At the same time, the Viet Nam Aviation Department is working closely with other relevant agencies to guarantee compliance with ICAO regulations on countering illegal acts against civil aviation as well as to undertake counter-terrorism measures to ensure aviation security.

Question 1.4: What international efforts is Viet Nam participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Answer:

Viet Nam shares the view of many other countries that promoting dialogue among civilizations and deepening understanding among religions and cultures is one of the key elements to enhance cooperation and achieve success in combating terrorism. In that spirit, over the past years, Viet Nam has participated in various international and regional conferences with an aim to further promote dialogue and deepen understanding among countries of different cultures so as to prevent discrimination between different religions and cultures in the world. Particularly, Viet Nam has actively supported interrelated efforts at forums, namely UNESCO, ASEAN, ASEM, APEC, Francophone, Non-Aligned Movement and other international organizations.

Question 1.5: What steps is Viet Nam taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

a. It is Viet Nam's policy to strictly punish any criminal acts which jeopardize the policy of peoples' unity and sabotaging the material-technical

infrastructures, including cultural establishments. In particular, this issue is regulated under Article 87 and 85 of the Penal Code of Viet Nam.

"**Article 87. Undermining the unity policy**

1. Those who commit one of the following acts with a view to opposing the people's administration shall be sentenced to between five and fifteen years of imprisonment:

...

b. Sowing hatred, ethnic bias and/or division, infringing upon the rights to equality among the community of Vietnamese nationalities;

c. Sowing division between religious people and non-religious people, division between religious believers and the people's administration or social organizations;

d. Undermining the implementation of policies for international solidarity.

2. In the case of committing less serious crimes. The offenders shall be sentenced to between two and seven years of imprisonment."

"**Article 85. Sabotaging the material-technical foundations of the Socialist Republic of Viet Nam**

1. Those who intend to oppose the people's administration and infringe upon the life of officials, public employees or citizens shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment.

2. In the case of committing less serious crimes, the offenders shall be sentenced to between five and fifteen years of imprisonment.

Article 143 of the Penal Code of Viet Nam provides specific regulations on punishments applied for "Destroying or deliberately damaging property".

b. Recently, Viet Nam has introduced some concrete measures to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions. These measures include putting in place a coordination mechanism among Vietnamese and international agencies to prevent these acts; launching campaigns of dissemination and education of the Government's policy on religious issues; organizing religious and national festivals; publishing books and materials on religious activities in Viet Nam by the Religion Publishing House.

Central and local agencies in Viet Nam have also established a mechanism of close coordination to quickly deal with disputes, disagreements and complaints related to religious and ethnic issues so as to help stabilize the situation. A number of measures and solutions have also been put in place with a view to gradually climinating causes and motivations of extremism and terrorism.

In addition, the Vietnamese Ordinance on Beliefs and Religions approved by the Standing Committee of the National Assembly on 18 June 2004 reaffirms regulations on religious institutions and legitimate properties thereof as follows:

"Article 4

Pagodas, churches, mosques, monasteries, communal houses, temples, shrines, offices of religious organizations, training centres of religious organizations, other lawful establishments related to belief and religion, religious scriptures and worship articles shall be protected by law.

...

Article 26

Lawful assets of religious and belief organizations shall be protected by the law, and any violations against them shall be forbidden."

Question 1.6: What is Viet Nam doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

Answer:

Human rights are clearly stipulated in Chapter V of the 1992 Constitution of the Socialist Republic of Viet Nam on which legislation relating to the prosecution of offenders is developed. The Criminal Code of Viet Nam provides that all offenders are equal before the law, regardless of their sex, nationalities, beliefs, religion, social class and status (Article 3). Likewise, the Criminal Procedure Code also guarantees equality of all citizens before the law (Article 5). Besides, the Code contains articles with the effect of ensuring the protection of basic human rights, including citizens' right to physical inviolability (Article 6), the rights to life, health, honour, dignity, and property (Article 7), inviolability of residency, safety and secrecy of correspondence (Article 8), right to presumption of innocence (Article 9), right to self-defence or to defence counsel (Article 11), etc.

Viet Nam already promulgated the Law on Conclusion of, Accession to and Implementation of international Treaties. Article 3 of this Law states clearly that the Socialist Republic of Viet Nam shall comply with the international treaties to which it is a party. Besides, Article 6 of this Law also provides that international treaties shall prevail when conflicting with domestic laws.

CONCLUSION

Viet Nam shares the international community's common awareness of the need to severely punish the incitement of terrorist acts. The above-mentioned laws are the legal basis for Vietnamese competent agencies to prevent and punish the incitement of terrorist acts. Besides, Viet Nam also takes efforts to deepen dialogue and understanding among civilizations as an effective way to prevent discrimination among different religions and cultures.

It is Viet Nam's view that efforts against terrorism can be successful only if they are carried out in full compliance with the fundamental principles of international law, relevant provisions of the United Nations Charter and the commitments that each state undertakes at the international level, including those in the field of human rights, refugee and humanitarian laws. It is also Viet Nam's belief that it is necessary to eliminate the conditions conducive to the spread of terrorism, such as low development, inequality, human rights violations, and religious and racial discrimination.